

# DAVIS GRAHAM & STUBBS

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August 24, 2017

**Via E-Mail and U.S. Mail**

Joshua Wirtschafter, Esq.  
David Wood  
U.S. EPA, Region IX  
Office of Regional Counsel ORC-3  
75 Hawthorne Street  
San Francisco, CA 94105

Re: Leviathan Mine Superfund Site, SSID 091A/09PU  
Administrative Settlement Agreement and Order on Consent ("AOC")  
CERCLA Docket No. 2008-29, 29(a)  
Request for Payment of EPA Costs, June 19, 2017

Dear Josh:

This letter serves as notice under Paragraphs 79, 80, and 81 of the above-referenced AOC that:

(1) Atlantic Richfield Company tendered payment in the amount of \$1,533,568.87 to EPA today (August 24, 2017) by electronic funds transfer, representing the uncontested portion of EPA's June 19, 2017 Request for Payment of EPA Costs (the "Payment Request"), which Atlantic Richfield received on June 28, 2017; and

(2) Atlantic Richfield tendered payment in the amount of \$190,535.34 today into an interest-bearing US Bank escrow account, representing the disputed portion of the Payment Request.

A copy of the wire advice reports documenting both payments is enclosed with this letter.

The Payment Request seeks payment in the amount of \$1,724,104.21 for costs incurred by EPA between July 1, 2014 and June 30, 2016. By letter dated July 25, 2017, Atlantic Richfield notified EPA of its objections to \$190,535.34 of that total. Atlantic Richfield objected to \$11,742.13 in EPA Payroll and Travel Costs, \$10,092.33 in ATSDR Contract Costs, \$88,411.03 in Washoe Tribe Contract Costs, and \$80,289.85 in U.S. Army Corps of Engineers ("USACE") Contract Costs.

My July 25 letter requested supporting documentation concerning the Washoe Tribe's Contract Costs. Because we still have not received the requested documentation, Atlantic Richfield continues to question the full amount of those costs, which have now been paid into escrow in accordance with Paragraph 79.d of the AOC.

Once the requested documents are received and reviewed, Atlantic Richfield will notify EPA in writing of any specific objections and commence formal negotiations with EPA as to any contested charges for the Washoe Tribe Contract Costs in accordance with the AOC's dispute resolution procedures. At that time, a portion of the funds being paid into escrow today may be released to EPA as

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uncontested. Any escrowed funds remaining in the account following resolution of the present dispute will be applied towards subsequent EPA bills for Settled Future Response Costs. By tendering today's payments, Atlantic Richfield does not admit that any of the AOC's compliance periods for payment of Settled Future Response Costs or dispute resolution have commenced to run as to the Washoe charges, since we still have not been able to reasonably evaluate the basis for EPA's billed costs.

As to the other disputed charges identified in my July 25 letter, the AOC provides in Paragraph 87 that the parties shall have 60 days from EPA's receipt of Atlantic Richfield's written objections (or longer if the period is extended by EPA) to resolve this dispute through formal negotiations. EPA and Atlantic Richfield have not yet discussed this dispute. Atlantic Richfield requests that EPA reconsider its position as to the disputed charges and agree to deduct that amount from the Payment Request prior to September 23, 2017.

Atlantic Richfield expressly reserves all of its rights and defenses, including all rights conferred under the AOC, with respect to the disputed charges and with respect to any other response costs incurred by EPA and not included in the Payment Request.

Please feel free to contact me with any questions about this notice, resolution of the disputed EPA Payroll and Travel Costs, or our pending document request.

Sincerely,

A handwritten signature in black ink, appearing to read 'A.S. Cohen', with a long horizontal flourish extending to the right.

Adam S. Cohen

for

Davis Graham & Stubbs LLP

cc: David Wood, Chief, Account Section, EPA Region IX  
Anthony Brown  
Ronald Halsey  
Brian Johnson  
Nathan Block, Esq.

## August 24, 2017 Atlantic Richfield Wire Transfer Report:

### EPA Payment:

| Value     | Posting   | Transaction Detail               | Credit Amount | Debit Amount |
|-----------|-----------|----------------------------------|---------------|--------------|
| 24-Aug-17 | 24-Aug-17 | 495 Money Transfer<br>[REDACTED] | .00           | 1,533,568.87 |

### Escrow Payment:

| Value     | Posting   | Transaction Detail               | Credit Amount | Debit Amount |
|-----------|-----------|----------------------------------|---------------|--------------|
| 24-Aug-17 | 24-Aug-17 | 495 Money Transfer<br>[REDACTED] | .00           | 190,535.24   |